

Appl. No. 10/800,076
Amtd. Dated: August 15, 2005
Reply to Office Action of
May 13, 2005

REMARKS

Claims 1-18 were originally filed in the present application and are currently pending and at issue. Of these claims, Claims 1-13 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-5, 7, 14, 15, 17 and 18 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 1,266,396 to Brown (hereinafter "Brown"). Claim 6 has been rejected under 35 U.S.C. § 103(a) as unpatentable under Brown. Further, Claims 8-13 and 16 stand rejected under § 103 as being unpatentable over Brown in view of U.S. Patent No. 6,006,959 to Naden et al. (hereinafter "Naden"). These rejection are respectfully traversed and reconsideration is requested in light of the above amendments and the following arguments.

§ 112 Rejection

Claims 1-13 have been rejected because they referred to actuation of the device to close the container. As the Examiner points out, in the context of the claims, drawings and detailed description of the invention, actuation of the device is disclosed to open the container. Accordingly, Claims 1 and 8 have been amended to clarify this inadvertent error. No new matter has been added. Reconsideration of these claims is requested.

Further, though not addressed by the current Office Action, Claims 14-18 have been amended to read in a proper method format by reference to "steps of". No new matter has been added in making such amendments.

Appl. No. 10/800,076
Amdt. Dated: August 15, 2005
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§ 102(b) Rejection

Brown is directed to a can or container designed for holding and dispensing gaseous or inflammable fluids using automatically closing valves or stoppers to render the can safe against spilling or explosion of the contents (lines 8-22). The ball valve 21 "normally engages with a seat 22 provided at the port arranged between the spout 2 and the top of the can." (lines 95-98). Referring to Fig. 2 of Brown, the ball valve 21 (as well as ball valve 6) is shown contained entirely within the can itself when in an open position. Fig. 1 of Brown shows that only a very small portion, if any, of the ball valve 21 can be argued to be within the spout 2 in a closed position.

In the present application, independent Claims 1, 8 and 14 have been amended and are now directed to a portable liquid container having "a closure member disposed entirely within the spout." The addition of the term "entirely" is clearly supported by Figs. 3 and 4 and the corresponding text.

Brown cannot be said to disclose this feature, and, therefore, continued rejection of these claims under 102(b) would be improper. Further, it is not within the teaching of Brown to modify the disclosed container to allow the ball valve 21 to be placed entirely within the spout 2 and still be capable of being opened by the disclosed mechanism. In other words, by placing the ball valve 21 within the spout 2 of Brown, one would have to completely redesign not just the spout and ball valve, the linking and actuating mechanisms would need complete modification as well. Rejections of the pending claims on such a basis would be well outside the scope of both sections 102(b) and 103(a).

Appl. No. 10/800,076
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Accordingly, Applicants respectfully request reconsideration of the amended claims, Claims 1, 8 and 14, and submit that each is now in condition for allowance. Likewise, dependent Claims 2-5, 7, 15, 17 and 18 add further limitations to the base claims and should also be considered to distinguish over the cited reference to Brown.

§ 103(a) Rejection

The current Office Action essentially rejects Claims 8-13 as set forth in the rejections of Claim 1, but in further view of Naden. The Examiner states that Brown fails to disclose an insulating sleeve assembly, but such is shown in Naden. However, for the reasons discussed above, Brown fails to provide a sufficient basis for rejection of Claim 1. Accordingly, Naden would need to disclose a closure member entirely within the spout to support a proper 103(a) rejection.

Referring to Figs. 1-8 of Naden, the closure member 58 is clearly shown to be disposed on the exterior of spout 18. Further, the closure lid 58 of Naden, when actuated, moves outwardly from the spout. This too is in contrast to the claims of the present invention which require the closure member to move in an opening "direction inwardly of the spout." Accordingly, even when considered in combination with Naden, Brown fails to disclose the invention set forth in the present claims, as amended.

Accordingly, Claims 8-13 are considered to distinguish from the cited references, and should now be in condition for allowance. Reconsideration of the pending claims is respectfully requested.

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CONCLUSION

All pending claims have been initially rejected in the current Office Action under 35 U.S.C. §§ 112, 102(b), and 103, citing references to Brown and Naden. Claims 1, 8, and 14-18 have been amended to address certain of these rejections. No new matter has been added. Applicants contend that all claims distinguish over the cited references and are now in condition for allowance. Reconsideration of all pending claims is earnestly sought.

Should any formalities exist which can be addressed by an Examiner's Amendment, the Examiner is requested to contact the undersigned by phone to expedite the prosecution and eventual allowance of the present application.

Respectfully submitted,

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